

DRAFT

**North Dakota Department of Human
Services
Temporary Assistance for Needy Families
State Plan
2004**

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ADMINISTRATION

Agency Structure

The North Dakota Department of Human Services (NDDHS) as the designated state IV-A agency is responsible for the administration of North Dakota's Temporary Assistance for Needy Families (TANF) Program. TANF will be administered in accordance with Title IV-A of the Social Security Act as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and regulations as well as applicable state laws and the provisions of this TANF State Plan. The organizational chart for NDDHS is found in Attachment A.

The Public Assistance Division within NDDHS has the primary responsibility for the administration of the TANF Program that is under the direction of the Director, Economic Assistance Policy Division. The division consists of Energy and Nutrition Division; Public Assistance Division; System Support and Development, and Quality Control. The Economic Assistance Policy Division organizational chart is found in Attachment B.

County Administration

Each of the state's fifty-three counties, or a combination of counties, as supervised by NDDHS, administers the TANF Program. County social service offices are responsible for the day-to-day administration of the TANF Program. The only exception to county administration of TANF would be the administration of a TANF program by Tribal Government under Tribal TANF rules. At present, none of the four federally recognized tribes within the State are currently administering a tribal TANF program.

Role of Public or Private Contractors

Currently, NDDHS is contracting with Job Service North Dakota, the state employment service agency, for the employment and training services necessary to meet the requirements of the Job Opportunities and Basic Skills (JOBS) Program. Any other services that are obtained under contract will be provided in compliance with this plan and related plans for other assistance programs. Procurement of contractors will follow applicable state laws and allows Faith Based organizations equal opportunity to secure contracts.

Implementation Date

The implementation date of North Dakota's TANF Program was July 1, 1997.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM SUMMARY

Program Objectives

The TANF Program is based on a comprehensive approach to the economic problems and barriers that confront low-income families. The objectives of the TANF Program are:

1. Ensure the rights of every person to economic security;
2. Provide benefits on the basis of a social contract;
3. Allow families to retain a reasonable level of resources;
4. Encourage responsibility under the social contract;
5. Engage the private business sector as a major partner;
6. Provide incentives to make work more rewarding;
7. Require both parents to share in the support of their children;
8. Support relocation for work or training;
9. Evaluate performance based on the achievement of state goals;
10. Promote participation in the ND Health Tracks Program; and
11. Preserve and strengthen the family structure.

Eligibility Requirements

Treatment of Non-citizens

Qualified aliens who entered the United States before August 22, 1996 are eligible to receive assistance, if otherwise eligible.

All immigrants who meet the definition of a qualified alien and who arrive on or after August 22, 1996, will be ineligible for five years beginning on the date they obtain their qualified alien status, with the exceptions within the law for refugees, asylees, Cuban/Haitian entrants, certain Amerasians, those whose deportation has been withheld, victims of a severe form of trafficking; and veterans, active duty military and certain family members. An alien who is not a qualified alien is not eligible for TANF benefits.

TANF Household

The focal point of the TANF Program is to assist needy children who live in the home of a relative and have been deprived of parental support by reason of death; continued absence from the home; incapacity, disability, or age of either or both parents.

The household must consist of a dependent child, the dependent child's brothers, sisters, half-brothers, half-sisters, and natural or adoptive parents who reside with the dependent child, who are otherwise technically eligible for TANF.

Persons receiving Supplemental Security Income (SSI) are not included in the household and any income, earned or unearned, for that individual is not counted in determining benefits.

Eligibility for TANF assistance for a pregnant woman can begin no earlier than the sixth month of a medically verified pregnancy. If a pregnant woman in the third trimester, with no other children in the home, resides with her spouse, eligibility for the TANF benefit must be based on incapacity of the pregnant woman or her spouse. If the pregnant woman or her spouse is determined incapacitated, aged, or disabled, the needs of the pregnant woman and spouse may be met until the baby is born. Eligibility may continue if otherwise eligible after the birth of the child if either parent is disabled, incapacitated, or aged. If either parent does not meet the criteria of incapacity, disability, or aged, the case is closed the month of the child's birth.

Residency

There is no durational residence required for eligibility for TANF benefits. A resident of the state is one who:

- a. Is living in the state voluntarily with the intention of making North Dakota his or her home; or
- b. At the time of application, is living in the state and is not receiving assistance from another state.

Residence is retained until abandoned.

Teen Parents - Living Arrangement

Teen parents not living in adult-supervised settings are generally ineligible for TANF assistance.

North Dakota will not use TANF funds to provide assistance to an unmarried individual under 18 caring for a child, if the minor parent and child are not residing with a parent, legal guardian, or other adult relative, subject to limited exceptions.

Limited exceptions are made if the state agency determines that:

1. The teen parent has no parent, legal guardian, or other appropriate adult relative who is living or whose whereabouts are known;
2. No living parent, legal guardian, or other appropriate relative allows the individual to live in their home;
3. The teen parent or her child is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian;
4. Substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and her child lived in the same residence with the individual's own parent or legal guardian; or
5. For some other reason, it is in the best interest of the teen parent's child to waive the requirement for the teen parent and her child to live with a parent, legal guardian, or other adult relative.

If the individual falls within one of the exceptions, the state will provide or assist the individual in locating a second-chance home, maternity home, or other appropriate adult-supervised supportive living arrangement (unless the state determines that the individual's current living arrangement is appropriate). Once the teen parent is in an approved living arrangement, the state must require the individual and her child to reside in the living arrangement as a condition of receiving assistance.

Teen Parents - High School Attendance

North Dakota will not use TANF funds to provide assistance to an individual who is under age 18, is unmarried, has a minor child at least 12 weeks old, and has not successfully completed high school or its equivalent, unless the individual either participates in education activities directed toward attainment of a high school diploma or its equivalent, or participates in an alternative education or training program approved by the state.

Stepparent Consideration

In order to encourage marriage among single-parent families and assist those families when the primary individual in a TANF household marries, the income of the stepparent whose needs were not previously included in the TANF benefit will be disregarded in determining the TANF benefit for the first six months following the marriage.

Assets

Assets include both real and personal property that a household owns and can apply, either directly or by sale or conversion, to meet basic needs of food, clothing, shelter, etc. The asset limit is \$3,000 for one person, \$6,000 for two-person household, and \$25 for each additional person.

Income and Resources

Under the TANF Program, all income (earned and unearned income as defined by TANF policy), income deductions, and income exclusions are applied uniformly to TANF households. Resources and resource exclusions, budget methodology, reporting requirements, and certification periods are also subject to a uniform set of rules.

In an effort to encourage saving by the TANF household, resource limits are \$3,000 for one person, \$6,000 for household of two, and \$25 for each additional person. Additionally, TANF permits eligible households to claim one vehicle (car, van, or pickup) as exempt from resource consideration. No individual development accounts are presently allowed under the TANF Program.

Monthly Reporting

TANF households are required to submit monthly report forms as a condition of continued eligibility. The information will be used to determine eligibility and the amount of the TANF benefit. Requiring a monthly report provides households with a systematic method of reporting income and circumstances for the base and benefit months.

The monthly report does not replace the applicant's or recipient's responsibility to report within five days any change in circumstance that may affect eligibility or the amount of the TANF benefit.

Benefit Calculation

TANF Standard of Need

The department has established combined requirements for Temporary Assistance for Needy Families standards of need that represent amounts of income, by household size and living arrangement, necessary for a standard of living compatible with decency and health.

The six basic items of need considered in the temporary assistance for needy families cash grant are:

1. Shelter;
2. Food;
3. Clothing;
4. Personal needs such as combs, toothbrushes, toothpaste, razor blades, sanitary supplies, and haircuts;
5. Household supplies such as cooking utensils, laundry, bedding, and towels; and
6. Fuel and utilities.

The applicable standard of need determination must be based on whether the family has an independent living arrangement or a shared living arrangement. A family has an independent living arrangement if the members of that family have sole responsibility for all shelter costs. A family has a shared living arrangement if:

1. The household includes an individual who is at least eighteen years of age and not a member of the family;
2. The family receives a subsidy for shelter expenses, resides in public housing, or is not solely responsible for the assistance unit's shelter costs; or
3. Any member of the family receives assistance for the payment of shelter costs from someone not residing in the family's home.

Dual Standard of Need Policy

The applicable standard of need determination is based on whether the TANF family has an independent living arrangement or a subsidized/shared living arrangement.

A TANF family is defined as follows:

- An individual or group of related individuals within a household whose needs are recognized in benefits through Temporary Assistance for Needy Families.
- The parents of any dependent child and all brothers and sisters of any dependent child; whether by whole blood, half-blood, or adoption.
- Any child, parent of any eligible dependent child, or other caretaker relative who receives supplemental security income benefits.
- An alien who does not meet citizen and alienage requirements.
- An individual who is ineligible for Temporary Assistance for Needy Families benefits as the result of the imposition of a sanction.
- An individual who is a household member who is a legal dependent of a member of the household, but does not include roomers or boarders.

A minor parent who is the primary individual of the TANF case is subject to this policy.

Independent Living Arrangement

A family has an independent living arrangement if the members of that family have sole responsibility for all housing costs. If a family rents its living quarters, that family has sole responsibility if it is responsible to pay the full rental amount, the rent is not subsidized. If a family owns or is buying its living quarters, that family has sole responsibility if no individual who is not a member of the family pays the cost of

mortgage, property insurance, property taxes, special assessments, repairs, and improvements.

Subsidized/Shared Living Arrangement

A family has a subsidized/shared living arrangement if:

- a. The family includes an individual who is at least eighteen years of age and not a member of the family;
- b. The family receives a subsidy for housing costs, resides in public housing, or is not solely responsible for the assistance unit's housing costs; or
- c. Any member of the family receives assistance for the payment of housing costs from someone not residing in the family.

Once a determination has been made as to whether the TANF family has an independent or shared living arrangement, the applicable standard of need is used to budget the TANF benefit.

This policy applies if the caretaker is in receipt of TANF, disqualified individual because of a JOBS sanction, disqualified child support sanction, disqualified because of fraud, disqualified because of a drug conviction, disqualified alien, Supplemental Social Security Income recipient, minor parent budgeting case, or the individual is in receipt of an out of home allowance.

STANDARD OF NEED WITHOUT HOUSING ASSISTANCE

| No. of Care Takers | Number of Children | | | | | | | | | | | For each added child |
|--------------------|--------------------|-----|-----|-----|-----|-----|-----|-------|-------|-------|-------|----------------------|
| | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | +1* |
| 0 | 0 | 213 | 288 | 360 | 435 | 507 | 582 | 655 | 729 | 802 | 876 | 72 |
| 1 | 282 | 378 | 477 | 573 | 670 | 767 | 864 | 961 | 1,058 | 1,155 | 1,251 | 96 |
| 2 | 378 | 477 | 573 | 670 | 767 | 864 | 961 | 1,058 | 1,155 | 1,251 | 1,349 | 96 |

STANDARD OF NEED WITH HOUSING ASSISTANCE

| No. of Care Takers | Number of Children | | | | | | | | | | | For each added child |
|--------------------------|--------------------|-----|-----|-----|-----|-----|-----|-------|-------|-------|-------|-------------------------|
| | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | +1* |
| 0 | 0 | 163 | 238 | 310 | 385 | 457 | 532 | 605 | 5679 | 752 | 826 | 72 |
| 1 | 232 | 328 | 427 | 523 | 620 | 717 | 814 | 911 | 1,008 | 1,105 | 1,201 | 96 |
| 2 | 328 | 427 | 523 | 620 | 717 | 814 | 911 | 1,008 | 1,105 | 1,201 | 1,299 | 96 |

Employment Incentive Disregard

Reasonable costs associated with maintaining employment are considered. A standard work allowance of 27% or \$180 whichever is greater of gross earned income is disregarded. This applies to each adult household member, minor parents, stepparents, parents of minor parents, and non-student dependent children who have earned income used to determine the TANF cash benefit. The standard work allowance does not have a time limit.

Employed individuals are allowed to retain more of their earnings while eligible for TANF. Households will be eligible for assistance until their earned and unearned income received exceeds the applicable standard of need. In addition to the standard work allowance, eligible household members may receive the graduated time-limited percentage disregard that is used to offset the net earned income after deducting the standard work allowance against the TANF benefit. With the graduated disregarded income, as the earnings of the household increase, the amount counted in the benefit determination also increases until the net earnings are counted dollar for dollar against the TANF benefits.

The time-limited percentage disregard is for a thirteen-month period. For an employed TANF household member with countable earned income, a maximum of fifty percent of net earned income is disregarded for months one through six. For month seven through nine, a maximum of thirty-five percent is disregarded. For months ten through thirteenth, a maximum of twenty-five percent is disregarded. Beginning the fourteenth month none of the net earned income is disregarded.

Special Needs Items

Approved special items of need for eligible TANF household members are considered part of the state's official standard of need. Special items of needs include reimbursement for health insurance premiums, car seats, catastrophic event, or childcare during a parent's illness or hospitalization.

Allowable Expenses

Allowable earned income deductions include non-household member deductions for stepparent and minor parent budgeting, health insurance premium deductions for stepparent and minor parent budgeting, paid court-ordered child support, paid court ordered alimony, and child or adult dependent care related to paid employment or paid employment and training/education.

TANF allows a deduction for the cost of childcare from household income and the cost of adult dependent care for incapacitated adults living in the same home is a disregard from countable household income. However, the incapacitated adult must be an eligible TANF household member receiving TANF benefits.

Recovery of Overpayment

Overpayments are applied against minor caretakers or primary individuals age 18 and over. The overpayment or underpayment is the difference between the benefit amount the client actually received before recoupment and the benefit amount the client should have received before recoupment.

Fraud Overpayment Recovery

Recovery of all overpayments resulting from fraud is accomplished by reducing the TANF benefit to 20% of the TANF Standard of Need for the appropriate household size each month until the overpayment is collected. A recipient may repay the amount of overpayment at a rate greater than the 20% standard as long as the decision to do so is voluntary and without duress.

If the court has ordered an amount of recovery different than the amount identified above, the amount ordered by the court will be the amount recovered.

Fugitive Felons, Probation/Parole Violators, and Convicted Drug Felon

An individual is disqualified from receiving TANF in the following situations:

1. A fleeing felons, parole or probation violators. Fleeing felons (charged with or convicted of any felony), and parole or probation violators are ineligible to participate in the program.
2. A convicted drug felon.. Individuals who have been convicted of a felony offense for an act which occurred after August 22, 1996, which included as an element of possession, use, or distribution of a controlled substance (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) are permanently disqualified from the TANF program in North Dakota. The disqualification does not apply to alcohol-related convictions. Action to deny or terminate TANF can be taken only if verification is obtained concerning such

conviction. Convictions overturned in a court of law may be removed. Felony status of the conviction is determined with reference to the crime classifications of the jurisdiction in which the conviction took place.

The disqualification for fugitive felons and probation/parole violators may end if the individual corrects the situation.

Fugitive felons, probation/parole violators, and convicted drug felons who are disqualified from receiving TANF assistance continue to have their income and assets considered when determining eligibility for remaining household member(s). Disqualified individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care).

Penalty for Fraudulent Misrepresentation of Residence

Any individual convicted in federal or state court of having made a fraudulent statement or representation after July 1, 1997, with respect to their place of residence in order to receive TANF simultaneously from two or more states shall be disqualified from TANF for a period of ten (10) years, effective the date of conviction. In addition, the individual shall also be referred for Intentional Program Violation (IPV).

Case Management

Case management is the activity that puts into operation the goals and objectives of TANF. TANF places primary emphasis on families moving towards self-sufficiency in contrast to past emphasis on providing benefits to address financial needs. TANF will continue to provide economic assistance to families for temporary support but, from the time they start receiving TANF benefits, work and independence is stressed.

TANF case management is the primary activity of the eligibility worker. Financial assistance is as one of a variety of services designed to support families. Family needs are considered in a context broader than just financial. The eligibility worker and household complete an assessment to identify both strengths and weaknesses in the family. This assessment is used to develop goals and activities that will help move households toward self-sufficiency, agreed upon by the family and the eligibility worker and included in the social contract. In accordance with Section 504 of the Rehabilitation Act, Title II of the Americans with Disabilities Act TANF affords qualified individuals with disabilities opportunity to participate in or benefit from TANF program that is equal to the opportunity the agency offers to individuals without disabilities.

In accordance with Title VI of the Civil Rights Act of 1964, Limited English Proficiency (LEP) individuals are provided an equal opportunity to participate in the TANF program. The Department requires TANF individuals to receive language assistance necessary to afford them meaningful access to services, free of charge.

Assessment

There are six areas under the assessment process with many different goals for each area. The six areas are as follows:

1. COUNSELING - Needs are identified in areas such as individual and family counseling, substance abuse counseling, domestic violence counseling, and nutrition counseling. If nutrition was picked as an area of need, providers could be identified and the family is referred for services for anything from a nutritional assessment to menu planning or budgeting for nutritional needs.
2. EDUCATION - Adult education and early childhood education needs are identified here. Adults without a high school diploma may be referred to adult education classes or to a GED program. Preschool children may be referred to Head Start.
3. EMPLOYMENT - This identifies needs in the employment area and referrals may be made to a number of service agencies such as Job Service and Vocational Rehabilitation.
4. FINANCIAL - When financial difficulties are identified as an area of need, referrals may be made to housing assistance, the food pantry, budget counseling or other services that assist families in money management.
5. LEGAL - Families will be given referrals for legal assistance when this need is identified.
6. SUPPORTIVE SERVICES - This is a broad area that can identify needs in areas such as transportation or emergency food assistance.

Social Contract

A variety of goals may be identified as the eligibility worker and TANF family completes the assessment. Goals are identified and prioritized as those to address immediately or ones that can be worked on in the future. The task writing is to be done cooperatively between the eligibility worker and the TANF family and is individualized for each family.

The goals and tasks developed during the assessment are recorded on the social contract. Each family must complete a social contract by the end of the fourth month in which they receive TANF benefits. The social contract is a signed agreement between the county social service office and the family identifying the goals and tasks for which the family is responsible. Each task has a time period identified for completion. Continued eligibility in the TANF Program depends on meeting the obligations under the social contract. Failure to complete the tasks on the contract can lead to the sanction of a household member and, in cases where the sanction is not cured, the TANF case can be closed.

Mandatory Requirements

There are three mandatory requirements that all TANF households must meet unless they are otherwise exempt. These are cooperation with Child Support Enforcement, cooperation with work and training requirements, and cooperation with the North Dakota Health Tracks Program.

TANF recognizes the importance of a strong Child Support Enforcement effort. TANF families must agree to cooperate with Child Support Enforcement to establish paternity and assist in ensuring that non-custodial parents share in the support of their children. Non-cooperation may lead to an individual being sanctioned, and continued non-cooperation may lead to the TANF family losing benefits.

The TANF Program views employment as the key to self-sufficiency. All eligible non-exempt individuals must participate in employment or training activities. Individuals that do not cooperate with the tasks or program requirements may be sanctioned. Continued non-cooperation may lead to closing the TANF case.

An integral component of TANF involves employment and work experience in order to obtain work experience and assist in resume development. Employment and work experience requires a minimum number of hours per week. Nonexempt individuals, who are not actively involved in a full-time training or employment activity, as approved by the agency, may be required to participate after an appropriate assessment.

Referral for North Dakota Health Tracks Program services is included as part of the social contract. The TANF program encourages preventative care and participation in North Dakota Health Tracks screenings is mandatory for TANF households. Failure to comply with this may result in a seven percent reduction of the benefit. This reduction will remain in place until the household complies with the screening. Required household members that complete the initial and annual screening receive a \$25 payment per eligible child.

Sanctions

Sanctions result when an individual refuses to comply with the tasks set forth on the social contract. Sanctions are discussed in detail in the section titled, "Sanctions - Failure to Comply with TANF Program Requirements Penalty".

Failure to Comply with TANF Program Requirements

Families and individuals receiving assistance under North Dakota's TANF program must meet certain requirements as part of their continued eligibility for benefits. Failure to comply with those requirements may result in a penalty or sanction imposed against the responsible party(ies) unless good cause is established. Program requirements include participation in work or training activities; parenting or budgeting classes; or individual, family, substance abuse, or addiction counseling. This list is not all-inclusive; other activities may be required as determined through assessment of the individual's needs.

Sanctions will result in the disqualification of the responsible individual and his or her needs will be removed from the TANF benefit. However, the disqualified individual's income and resources continue to be counted in determining the amount of the TANF benefit for the family. Under the TANF Program, participants who fail or refuse to comply with program requirements, without good cause, may be sanctioned. Actions or failures to comply that may result in sanctions include:

- a. Failure or refusal to participate in the Job Opportunities and Basic Skills program;
- b. Failure or refusal to cooperate in obtaining child support or establishing paternity;
- c. Not completing a social contract;
- d. Not signing a social contract;
- e. Not completing the goals or tasks listed on a social contract; and
- f. Not cooperating with an agency providing services to meet goals or tasks listed in the social contract, including goals identified as mandatory or non-mandatory referrals and goals that are non-mandatory and identified in the assessment.

All sanctions are first imposed against the responsible individual and will result in removal of the individual's needs from the TANF benefit, known as the sanction penalty month. The sanction penalty month runs from the effective date of a sanction through the last day of that month. If the sanctioned individual does not cure the sanction prior to the end of the sanction penalty month, the sanction may progress to closure of the entire case. If a sanction leads to closure of the entire case, the household will be ineligible for assistance in the month following the sanction penalty month.

Sanctions for non-cooperation with Child Support Enforcement, a social contract, or the JOBS Program follow the non-cooperating individual.

A JOBS sanction and a social contract sanction are cured only when the responsible individual demonstrates, to the satisfaction of the county agency, that the failure to cooperate or participate, as required, has been corrected.

A Child Support Enforcement sanction will be considered cured upon notification from the Child Support Enforcement agency to the eligibility worker.

In some instances, a JOBS sanction will result in the creation of an overpayment instead of an immediate reduction in the household's TANF benefit. The overpayment will be equal to the sanctioned individual's needs during the sanction penalty month.

The consequences of a TANF sanction are the same regardless of how many times an individual may have been previously sanctioned.

The state will not reduce or terminate assistance if the household demonstrates the inability to obtain childcare for one or more of the following reasons:

1. Unavailability of appropriate child care within a reasonable distance from the individual's home or work site;
2. Unavailability or unsuitability of informal child care by a relative or under other arrangements; and
3. Unavailability of appropriate and affordable formal child care arrangements.

Demonstrated inability to obtain childcare will be based on client completion of tasks spelled out in the social contract. These tasks will be developed on an individual basis with each family and may include such things as contacting Resource and Referral to obtain a list of appropriate child care providers and following through on contacting the providers. Satisfactory completion of assigned tasks and childcare not being obtained will demonstrate inability to obtain childcare.

Non-cooperation with Child Support

Individuals who apply for or are receiving assistance under the TANF Program are required to cooperate with the state's Child Support Enforcement. Any individual who is not cooperating with the state to establish paternity or to establish, modify, or enforce a support order with respect to a child of the individual shall be subject to sanction unless good cause is established.

WORK PROGRAMS

Work, as a vehicle to self-sufficiency, is a key to TANF. An employability assessment will be completed on all non-exempt individuals. The JOBS Coordinator completes this assessment within seven (7) calendar days from the individual's date of first contact with the employment and training program. This assessment explores whether non-exempt individuals are work ready or need additional training, work experiences, assessment of English language proficiency (LEP), or other services to become work ready. The assessment determines quality and quantity of previous work experience or work skills, individual strengths and barriers to employment. The determination of work readiness will be made after completion of the employability assessment. For adult recipients without a high school degree, provisions for completion of the degree or an approved alternative may be required.

Recipients not able to find private sector employment may be required to take part in work experience or community service activities. Recipients deemed not to be work ready will be expected to engage in activities to develop work skills or increase job readiness. A recipient may be required to complete job readiness activities such as counseling, alcohol or drug

addiction evaluation or treatment, or vocational rehabilitation activities. These alternative activities will be viewed as temporary, providing experiences that will lead to private sector employment.

Any eligible caretaker, teen parent or dependent child who is over age 16 and not in school may be required to engage in work unless he or she is exempt. The first step is the assessment to determine if the individual is work ready and if the activity will be work or activities leading to work. Exempt individuals include those who are:

1. Age 65 or older;
2. Under the age of 16;
3. Age 16 and older who are currently enrolled or accepted for enrollment as a full-time student for the next school term in an elementary or secondary school or in a vocational or technical school that is equivalent to secondary school and who will graduate by his or her nineteenth birthday, unless the child is a teen parent; and
4. A parent or caretaker relative of a child under age four months who is personally caring for the child full-time. The parent or caretaker relative is considered exempt for 120-days from the child's date of birth with the date of birth counted as day one of the exemption period..

Non-exempt individuals will be required to engage in work activities once they are determined work ready or at such time an eligible adult has received assistance for 24 months, whether or not consecutive, whichever is earlier. Good cause exceptions may be allowed for individuals who are required to participate in work activities. Good cause exceptions will be temporary in nature and will be determined on a case-by-case basis to include temporary illness, breakdown in transportation or childcare arrangements, etc.

The priority for placement is as follows:

1. Unsubsidized employment (work in the private sector);
2. Subsidized employment (wages are paid wholly or in part by the state agency);
3. Work experience; and
4. Community service. A recipient will not be retained in community service or work experience placement for prolonged periods of time.

For the purpose of satisfying the federal work participation requirements, work is defined as:

1. Unsubsidized employment;
2. Subsidized public or private sector employment (Subsidized employment is defined as wage subsidies from the state agency which provide a cash incentive for employment of a recipient.);

3. Work experience placements with public or private employers or involvement in job workshops designed to teach participants both hard and soft job skills, if regular employment is not available. Individuals involved in work experience are considered trainees.
4. On-the-job training;
5. Job search and job readiness (a maximum of four consecutive or six non-consecutive weeks, per fiscal year, for job search only or thereafter, job search or job readiness in conjunction with another work activity);
6. Community service - public or private sector activities that provide a benefit to the community;
7. Vocational education for a maximum of no more than four months in every period of 24 consecutive months as spelled out in the employability development plan; formal type activities that will enhance recipient skills to retain long term employment;
8. Job skills training directly related to employment (includes, but is not limited to, job skills through an internship or practicum and preparations for employment such as adult basic education, English proficiency, etc.);
9. Attendance in high school, in GED classes or in education directly related to employment for teen parents or adult family members without a high school degree;
10. Provision of child care services for a recipient who is doing community service;
11. Other state approved regional TANF projects that encourage work readiness, job experience, and job retention.

Additional work activities such as participation in alcohol or drug evaluation or educational activities defined by NDDHS may be required of eligible recipients based on the individual assessment. Work activities will be available statewide but may vary in scope. Attendance in and completion of high school or GED classes for adult recipients between the ages of 21 and 50 may be required based on the individual assessment.

Satisfactory school attendance is met when the recipient:

1. Attends school on a regular and consistent basis;
2. Attends school on a full-time basis; and
3. Maintains satisfactory progress toward the completion of the educational or training activity.

No subsidized private or public sector employment or work experience placement will be allowed if:

1. There was work reduction resulting in a layoff in a similar or equivalent job, or
2. An employee is terminated in order to create a vacancy for a subsidized worker.

Community Service

Based upon an order by the Governor of the state of North Dakota, NDDHS will not require mandatory participation in community service employment for caretakers or parents who, after receiving assistance under the TANF Program for two months, are not exempt from the work requirements. However, community service employment may be required of any nonexempt parent or caretaker if such activity is identified as a requirement of the Employability Development Plan.

Notification has been forwarded to the Secretary, US Department of Health and Human Services, prior to August 22, 1997, of North Dakota's intent to opt out of the community service provision identified in Section 402(a)(1)(B)(iv) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

DOMESTIC VIOLENCE OPTION

North Dakota chooses to implement the Family Violence Option of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Domestic Violence includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force or assault, not committed in self-defense, on the complaining family or household members.

Family or household member means a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they are or have been married or have lived together at any time.

The domestic violence-screening component is included in the TANF assessment. The purpose of the screening tool is to identify victims of domestic violence, make referrals to appropriate services for victims of domestic violence, and identify victims of domestic violence to exempt from work participation requirements and the 60-month lifetime limit for TANF benefits. The exemptions are based on incapacity along with other conditions that may likewise exempt clients from participation requirements for a period of time.

Screenings that indicate past or present domestic violence may result in a referral for services. The client and worker will discuss the need for counseling, support group services or further assessment and will arrive at a strategy to address the need. It is important for victims of domestic violence to establish some control in their lives. As a first step towards this end they will be given support to develop an intervention strategy to address their present needs.

Victims of domestic violence may be excused from work participation requirements, education requirements and may receive assistance past the 60-month limit on TANF participation. The consideration is based on identification of domestic violence, evidence that

it is interfering with daily living, and participation in counseling or support services to address the problem. The purpose of the exemption is to allow the client time to address issues related to domestic violence. The long-range goal is to address these issues and get past them to a point where the client can reach self-sufficiency.

NDDHS recognizes the devastating effect of domestic violence on the lives of its victims. The TANF Program developed by North Dakota provides opportunities to identify the occurrence of domestic violence and to support families as they work to overcome the problems associated with past or present violence. The goal of the TANF Program is to identify these conditions and create individual plans to address these needs. Self-sufficiency is always the goal under TANF and in cases where exemptions are granted; they are viewed as temporary in nature.

OUT-OF-WEDLOCK PREGNANCY PREVENTION

NDDHS in partnership with the North Dakota Health Department addresses the issue of out-of-wedlock pregnancies with clients served by NDDHS programs. A training package on preventing out-of-wedlock pregnancies has been developed to present to all children, age 13 and older. The package is made available to other government entities and private agencies providing services to children. Family planning information is included in light of increasing sexual activity at a younger age by today's youth.

Abstinence education is part of the training package for youth and in addition a grant from North Dakota Health Department may be made available in each of the eight regions for competitive bidding to develop and implement an abstinence education program for the youth in each region. Pre-pregnancy family planning services are offered to those who are eligible for Medicaid.

In TANF, we encourage marriage by disregarding the stepparent's income for six months when a person on assistance marries.

TANF benefits cannot be used as a vehicle to allow unwed minor parents to establish their own household. North Dakota requires minor parents to live with their parents or in an approved adult supervised setting in order to receive assistance. Public education is carried out in a variety of ways to inform minors of these provisions.

To include young men in this attempt to reduce out-of-wedlock births, an increased effort is made to educate them on the consequences of fathering a child. Primary concentration is an emphasis on child support laws and the financial obligations and responsibilities that go along with being a father.

In an effort to reduce the number of out-of-wedlock births a section on family planning is included as part of the assessment tool and each family is provided with a brochure entitled Family Planning Program.

STATUTORY RAPE EDUCATION & TRAINING

Statutory Rape

In TANF there is a directive to expand teen pregnancy prevention programs to include men by conducting a program of education and training on the problem of statutory rape.

North Dakota Health Department has developed a training package available to schools, law enforcement and the court system to educate service providers and government entities about statutory rape.

The training package developed is made available to a broader audience by offering it to public and private secondary schools and public and private colleges in North Dakota. NDDHS on its own does not serve as broad a population as is needed to fully address this issue. We will work to cooperate and give technical assistance to other public entities and private organizations to distribute information to as large a group as possible.

PARENTAL RESPONSIBILITY

TANF places a renewed emphasis on responsibility of the custodial and non-custodial parents to care for their children. Much of this increased emphasis on responsibility is found in the Enhanced Child Support Enforcement section.

Enhanced Child Support

The State of North Dakota uses greater administrative access to sources of information from a variety of public and private entities to promote expedited and enhanced child support enforcement services. The following highlights illustrate administrative changes that enhance enforcement abilities and increase parental responsibilities.

- Child support does have the authority to use administrative subpoenas for gathering information to establish, modify or enforce support orders.
- Child support does have the authority to administratively order genetic testing. Child support has eliminated the right to jury trials in paternity cases. Child support requires temporary payment of support based on probable paternity findings, thereby reducing the incentive to delay hearings as a means of delaying payments.
- Greater administrative access to records of public and private entities to find non-custodial parents, wages and assets is pursued. A new hire registry in the state was developed to better track employment of non-custodial parents.
- In cases where a child is receiving assistance under TANF and the non-custodial parent owes past due child support, state law must include authority to issue an order or request a court to issue an order requiring an individual to pay support in accordance with a payment plan or to participate in work activities as defined in Section 407(d), which

defines the mandatory work requirements of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). This requirement will be met using existing programs based upon a request for a court order to pay or participate in work.

- Courts have the authority to suspend various licenses of persons owing past due child support.
- More is expected of the custodial parent as well. Non-cooperation with child support may lead to sanctions that could lead to a family losing eligibility.

Additional Parental Responsibility under TANF also includes:

- Minor parents must live with their parents or in an approved adult supervised setting to receive assistance through TANF.
- Minor parents are required to stay in school. Based on assessment results, they may be required to receive extra training on issues such as parenting, and food and nutrition education. The goal of this is to increase their chances of finding good employment to better support their children.

60-MONTH LIFETIME LIMIT - EXEMPTION CRITERIA

The state is prohibited from providing TANF benefits to families that include adults who have received TANF benefits for 60 months (whether or not consecutive). Individuals who have reached the 60-month time limit may be allowed an exception to the rules if they meet the criteria listed in this section. The number of families exempted under this provision may not exceed twenty percent of the average monthly number of families receiving TANF benefits. Cases must meet the exemption criteria specified in this section and the cases will be reviewed periodically to determine if the exemption is still valid.

Exemptions are limited to:

1. Eligible caretakers whose incapacity precludes the individuals from engaging in work activities. Each case will be reviewed by the State Exemption Determination Team to affirm the condition will preclude employment for a specified length of time or reject the claim that a barrier to employment exists due to health-related conditions. The State Exemption Determination Team consists of the Public Assistance Director, the JOBS policy administrator, and the TANF policy administrator;
2. Social Security Administration considers the adult caretaker disabled;
3. Needy caretaker relatives, age 65 or over;
4. Eligible parents or caretaker relatives who are providing care to a child whose condition prohibits care by a child care provider, in-home care, or outside of the home care and prevents the parent or caretaker relative from becoming employed. Each case will be

reviewed by the State Exemption Determination Team to consider exemption from the 60-month lifetime limit.

5. A victim of domestic violence whose victimization prevents her or him from employment due to the following:
 - Physical acts that result in or threatened to result in physical injury to the individual;
 - Sexual abuse;
 - Sexual activity involving a dependent child;
 - Being forced as a caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;
 - Threats of, or attempts at physical or sexual abuse;
 - Mental abuse; or
 - Neglect or deprivation of medical care.
6. Indian Reservation counties with unemployment rate of 50 percent or greater. Job Service of North Dakota determines the unemployment rate.

BENEFIT CAP

TANF benefits were not increased because of an increase in household size if the increase was due to the birth of a child conceived while the mother or father was receiving TANF benefits in North Dakota. Exceptions to this provision are for children born as a result of rape, incest, or cases in which the parent is under age 18.

Regionalization/Special Projects

The NDDHS recognizes there are diverse populations within the state and that the various human service planning regions can better meet the needs of the populations within their regions and determine methods to assist recipients in their endeavors to become self-sufficient.

As a result, human service planning regions may, with state approval, provide TANF benefits and services that are not identical to benefits and services provided elsewhere in North Dakota. Approved regional TANF projects will have objective criteria for the delivery of benefits and the determination of eligibility and for fair and equitable treatment that will provide opportunities for recipients to become self-sufficient.

Closer cooperation between County Social Services, Job Service North Dakota and the Regional Human Service Centers is a key feature of these Regional Projects. The NDDHS encourages efforts that encourage efforts to use the resources of these agencies to assist TANF families to become more self-sufficient. In regions containing Indian Reservations, Tribal Programs should be included in these cooperative efforts.

A core feature of each of the approved regional TANF projects will be the enhanced cooperation between county social services, Job Service North Dakota and the applicable regional human service center.

KINSHIP CARE ASSISTANCE

Kinship care supports a child residing outside the child's parental home if the child is residing with a caretaker relative who is that child's relative by birth, marriage, or adoption. Placement will receive financial resources through supportive services and a monthly maintenance payment. Within the limits established by the department under the foster care program, supportive services may provide reimbursements for childcare expenses, transportation, clothing, emergent needs, activity fees, and as a payer of last resort, reasonable legal fees incurred by or on behalf of a child approved by the department. Support services and a kinship care maintenance payments are in the same amount as the standard of need for a shared living arrangement for a child or children under the temporary assistance for needy families program and:

1. A court of competent jurisdiction has entered an order placing child's care custody, and control with a county agency in North Dakota or their designee; and
2. Before placing a child in kinship care for more than thirty days, the county agency with care, custody, and control of the child, or their designee, has completed a family study, a child abuse and neglect background check, and such other investigations as the department may determine necessary to demonstrate that:
 - a. The home in which care will be provided is in fit and sanitary condition and properly equipped to provide good care to the child.
 - b. The caretaker relative, and other adults residing in the home of a caretaker relative are properly qualified to carry on the duties and responsibilities of a kinship care provider;
 - c. Kinship care will be provided in the home for the public good in accordance with social service policy and with due regard to the health, morality, and well-being of all children cared for in the home; and
 - d. The home will be maintained according to standards prescribed for its conduct by the department.

DIVERSION ASSISTANCE

Diversion assistance helps prevent needy families from becoming dependent on continuing government benefits by providing short-term cash assistance to qualified families to promote job retention. Diversion assistance is not assistance for purposes of 45 CFR 260.31.

1. A family may not receive diversion assistance and a temporary assistance for needy families grant for the same month. A family may receive diversion assistance only once within a twelve-month period beginning in the month diversion assistance is provided. No family that includes a caretaker who is not a legally responsible relative of a child member of the family may receive diversion assistance.
2. Diversion assistance may be provided to defray expenses necessary to retain or obtain employment. Expenses must be verified. Diversion assistance payments may not exceed an amount equal to four times the temporary assistance for needy families standard of need amount applicable to the family's size and living circumstances in the month diversion assistance is initially provided.
3. Members of a family are not required to participate in the job opportunities and basic skills program. No referral may be made to the job opportunities and basic skills program.
4. No cooperation in obtaining support or establishing paternity for any child member of the family is required. The family may request a referral to the child support enforcement agency.
5. Participation in health tracks screening services is not required.
6. No assessment and social contract are required.
7. Monthly gross income of the family may not exceed one hundred and forty percent of the poverty level.
8. An applicant may appeal a denial, limitation, or termination of diversion assistance, and a recipient of diversion of assistance may appeal termination or reduction of assistance, by making a written request for a hearing within thirty days from the date of the notice of adverse action. Diversion assistance not already approved may not be provided pending the hearing decision.
9. A month in which diversion assistance is received does not count towards the temporary assistance for needy families sixty-month lifetime limit.
10. For purposes of this section, "poverty level" means the official income poverty line, as defined by the United States office of management and budget, and as revised annually in accordance with 42 U.S.C. 9902(2).

UP-FRONT ELIGIBILITY

Unless first determined to be exempt or granted good cause for nonparticipation, the applicant, and any member of the family for whom temporary assistance for needy families is requested, shall, as a condition of eligibility, cooperate with referrals to child support enforcement and job opportunities and basic skills or a tribal native employment works program.

TRIBAL PARTICIPATION

Four federally recognized tribes provide various types of services to tribal members within North Dakota. NDDHS has worked closely with tribal staff in areas such as the Job Opportunities and Basic Skills (JOBS) and Childcare Programs. It is the intent of NDDHS to support in an appropriate manner the decision of each tribe to directly participate or not to participate in administering TANF. NDDHS will provide each member of an Indian tribe, who is a resident of the state and is not eligible for assistance under a Tribal Family Assistance Plan approved under Section 412, with equitable access to assistance under the TANF Program.

If any of the four federally recognized tribes choose to operate a TANF Program separate from the state, the tribal TANF Program may set its own eligibility and benefit rules subject to federal approval. Tribal TANF participants will not be included in the state's TANF reports or work rate calculation.

Tribal NEW Participants

State TANF recipients, who are members of a federally recognized tribe, may be referred to the tribal Native Employment Work (NEW) program for work and training activities. The NDDHS retains the option of counting or not counting Tribal NEW participants in the calculation of the state's work participation rate. _At this time Tribal NEW participants are not counted, but if reliable methods are identified to include Tribal NEW statistics in the state's work participation rate, a decision may be made to include Tribal NEW participants.

TANF INFORMATION AND REFERRAL SERVICES

Almost all TANF recipients receive food stamps. About one-third of food stamp households also receive TANF. The remaining food stamp households are low-income adults with or without children, including those who are disabled or elderly.

With welfare reform, however, the need to coordinate the two programs has increased. Under the TANF funding, a wide variety of services and programs can be offered, i.e. cash benefits, diversion programs, financial incentives, information systems, and varies services. The vehicle North Dakota uses to bridge the gap between programs is TANF information and Referral Services, which are funded by the TANF Program.

TANF Information and Referral Services were implemented to provide information to Food Stamp families, including those not in the TANF program. The county social service offices provide information and referral services to applicants and recipients of the Food Stamp and TANF Program on available services in their area such as Housing Assistance, Food Pantry, Social Security Administration, Vocational Rehabilitation, Human Service Centers, Salvation Army, WIC, etc.

EMERGENCY ASSISTANCE

TANF resources will be used for emergency assistance to needy families with children who were eligible for emergency assistance under the approved North Dakota AFDC State Plan as of September 30, 1995.

The emergency covered services will be limited to children who are in situations where a court has determined that continued presence in their home is not in their best interest or for out of home care and preservation services to eligible families with children who are experiencing an emergency.

The kind of assistance provided to meet emergency situations shall be limited to maintenance payments for foster family care, group or residential child care or residential treatment for children separated from their parents including all food, clothing and supervision, unless the child is eligible for such assistance under Title IV-E, intensive in-home, parent aide and family focused casework.

The application for foster care shall constitute the application for foster care maintenance payments for Non-IV-E eligible children for emergency assistance.

Emergency Assistance may be provided for 365 days per year.

CONFIDENTIALITY and SAFEGUARDING INFORMATION

Federal and state laws and regulations strictly limit the use and disclosure of confidential information concerning applicants and recipients of economic assistance programs to purposes directly related to the administration of those programs, including, though not necessarily limited to:

1. Establishing eligibility, determining amount of assistance, and providing needed services for applicants and recipients;
2. Any prosecution of criminal or civil proceeding conducted in connection with the administration of such programs; and

3. Furnishing to a federal, state, or local law enforcement officer the current address of any recipient, to enable the officer to conduct the official duties of the officer. The recipient may be fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime that is a felony...or is a parole or probation violator.

Staff members at both state and county levels of government have access to conversation, files, records, reports, and mail that reflect information of a highly private nature. This information deals with such human problems as illegitimacy, mental illness and deficiency, conflicts with the law, economic distress, marital discord, and congenital deformities or other medical handicaps. Extreme discomfort, embarrassment, and harm can result for the individual or family if such information falls into the hands of unauthorized persons. For this reason, strict standards for safeguarding this information are defined in federal and state statutes and their violation has potentially serious legal consequences.

During the course of determining eligibility, the eligibility worker uses prudent methods for gathering information. Only factual information relevant to the determination of eligibility and work readiness will be sought and entered in the case file. The worker shall identify themselves by name, position, and purpose at each public contact.

Information to be Safeguarded

Other types of information that must be safeguarded include, but are not necessarily limited to:

1. The names and addresses of applicants and recipients and amounts of assistance paid, except as provided in North Dakota Administrative Code;
2. Social and economic conditions or circumstances that are identified with a particular individual. This restriction also applies to information obtained from North Dakota Job Service, Internal Revenue Service, or from the Social Security Administration;
3. County social service board and/or other professional evaluations of information about a particular individual;
4. Medical data, including diagnosis and past history of a disease or disability, concerning an applicant/recipient; and
5. Personal health information that is generated by the Department of Human Services or received from health care providers is kept confidential as required by law.

Information that need not be Safeguarded

Information of a general nature concerning caseloads, number of recipients by program, social and statistical data resulting from studies, surveys and reports, expenditures for programs and for administration, etc., that cannot be identified with specific individuals or families is public information and can safely be released to the news media or other interested parties.

Release of Information to Public Officials

Applicants/recipients of assistance programs sometimes approach their legislators, members of the Washington delegation, or other elected or appointed official to complain or seek information about some aspect of their assistance status. On their behalf, the official may in turn seek clarification from county or state staff. When such inquiry is clearly made at the request of the applicant or recipient, there is an implied consent on the latter's part to release the required information. In this instance, the facts can be safely provided without a signed SFN 1059, "Authorization for Release of Information".

Release of Information for Research Projects

Information concerning persons applying for or receiving assistance or services through any program administered or supervised by NDDHS may be released to a person conducting bona fide research, provided that all conditions outlined in Section 75-01-02-02 of the North Dakota Administrative Code are met. All research requests will be routed through the NDDHS Institutional Review Board (IRB) for approval or denial.

Release of Information from Case File to Applicant/Recipient

Case file information may be inspected by the applicant/recipient or his legal representative and copies of case materials, if requested, should be provided free or at reasonable cost. The file in some instances may contain medical or psychological information that if inadequately explained and interpreted, could be harmful to the person. When such is the case, the applicant/recipient should be advised that the information would best be provided to an appropriate professional who, in turn, could interpret the material. If, however, the individual persists in his demand for personally receiving the information, it should be provided. In such situations, a narrative entry should be clearly indicate that the request for information was granted but against agency recommendation.

Release of Information to Other Agencies

In addition to purposes directly related to the administration of assistance programs, information concerning applicants/recipients is available to persons and/or agency representatives of federal or federally assisted programs that provide aid, in cash or in-kind, to people on the basis of need.

Release of information to other persons or agencies may be made with the applicant's/recipient's signed permission, via SFN 1059, "Authorization for Release of Information".

Use of Public Records Without Knowledge or Consent

Public records may be consulted for documentary evidence without requesting the individual's consent. Additionally, no consent is required when seeking essential information from the Social Security Administration, BENDEX System, Job Service, Job Insurance Division, courts, Bureau of Indian Affairs, county courthouse records, or Credit Bureau publications.

Release of Information to Law Enforcement Authorities and Courts

Disclosure of information to law enforcement authorities, including the State's Attorney, is permissible when necessary to properly administer the program (e.g., initiate an investigation or prosecution for suspected fraud) or when the applicant/recipient has consented to the disclosure (use SFN 1059 to record the consent). Copies of relevant documents from the case record can be made available to such officials, if necessary.

The Deficit Reduction Act of 1984 permits the release to law enforcement authorities of the name and address of a current TANF recipient who is a fugitive felon. A fugitive felon is one who has been convicted of (not merely charged with) a felony and who is subject to a court order for his/her apprehension. To receive such information, law enforcement officials must be able to provide the recipient's name and social security number and satisfactorily demonstrate

that: a) the recipient is a fugitive felon, b) the location and apprehension of such felon is within their official duties, and c) the request is made in the proper exercise of those duties.

A county social service board representative may receive a subpoena requiring testimony or disclosure of information from records concerning an applicant or recipient. If the subpoena is issued by or at the request of the attorney representing the applicant/recipient, the subpoena may be complied with because of the latter's implied consent. When the subpoena for a court appearance is issued by any other person, however, the county social service board representative should appear in court at the appointed time, bringing copies of any case materials that will likely be required. When asked to testify about the applicant/recipient or to turn over confidential documents, the court's attention should first be called to state law (Section 50-06-15 of the North Dakota Century Code) that provides a criminal penalty for disclosing confidential information. If the judge then orders the testimony to be given or the documents to be released, the subpoenaed individual can safely comply.

Subpoenas are sometimes issued to secure witnesses in a "deposition," defined as the taking of sworn testimony, usually in an attorney's office, but with no judge present. If such a subpoena is received by a county social service board representative, the attorney issuing the subpoena should be immediately advised of the confidential nature of the requested testimony. Often this will result in the withdrawal of the subpoena. If not, the subpoenaed individual should appear at the deposition and make a statement, as described above,

regarding the criminal penalty provided in state law for disclosing confidential information. Because no judge will be present to order the testimony, no confidential information may be divulged in the deposition. Unless a party to the action or lawsuit gives the authority to do so, no one can be required to produce records at a deposition.

If a subpoena is received in an action or lawsuit in which the county social service board or one of its employees (in the employee's official capacity) is a party, the subpoena should be promptly brought to the attention of the attorney representing the party. Consultation with the state's attorney or legal counsel for NDDHS should be sought if other questions about the proper response to a subpoena arise.

Certain Practices Prohibited

The determination of a person's initial or continued eligibility for assistance shall be conducted in a manner consistent with his or her rights under the United States Constitution, the Social Security Act, and Title VI of the Civil Rights Act of 1964 and in accordance with Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act. Thus any practice that violates an individual's privacy or personal dignity, subjects him to any form of harassment, or infringes on his constitutional rights, is forbidden.

The North Dakota Department of Human Services and county social service boards shall not, directly or through contractual or other arrangements, on the ground of race, color, religion, gender, national origin, age, or disability;

1. Deny any individual any aid, care, services, or other benefits provided under this program;
2. Provide any aid, care services, or other benefits to an individual which is different or is provided in a different manner from that provided to others under the program;
3. Subject an individual to segregation or separate treatment in any manner related to receipt of any aid, care, services, or other benefits provided under the program;
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any aid, care, services, or other benefits provided under the program;
5. Treat an individual differently from others in determining whether he/she satisfies any eligibility or other requirement or condition which individuals must meet in order to receive any aid, care, services, or other benefits provided under the program; or
6. Deny any individual an opportunity to participate in the program through the provision of services or afford him/her an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee where the primary objective of the federal financial assistance to the program is to provide employment, including a program under which the employment is provided to reduce unemployment).

Privacy during Interviews

All reasonable precautions should be taken to ensure that interviews are conducted in private surroundings. Whenever possible, a private office shall be used. Likewise, office procedures should be such that confidential information is not inadvertently revealed to bystanders or others having no legitimate interest in the affairs of the applicant/recipient.

RIGHT TO FAIR HEARING

Right to Fair Hearing

1. An opportunity for a fair hearing is available to any applicant or recipient who requests a hearing in the manner set forth in this chapter and who is dissatisfied;
 - a. Because an application was denied or not acted upon with reasonable promptness;
 - b. Because county social service board action has resulted in the suspension, reduction, discontinuance, or termination of assistance;
2. NDDHS may, on its own motion, review individual cases and make determinations that are binding upon the county social service board. An applicant or recipient aggrieved by such determination shall, upon request, be afforded the opportunity for a fair hearing. All references to appeals from decision of county social service boards shall be understood to include appeals taken from determinations made by NDDHS.
3. A fair hearing request may be denied or dismissed where the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect benefit computation.
4. The claimant may first seek corrective action from NDDHS or claimant's county social service board before filing a request for a fair hearing with the executive director of NDDHS.

5. If a claimant dies after the claimant has filed a request for a fair hearing, and before the decision of NDDHS has been rendered in the case, an heir of the claimant may continue on behalf of the claimant's estate, or the proceedings if a legal representative has not been duly appointed.
6. If a dissatisfied claimant dies before the claimant can file a request for a fair hearing, the duly appointed representative of the claimant's estate, or any heir of the claimant if no representative has been appointed, may file such request when the claimant was dissatisfied with the denial of the claimant's application for assistance, or was dissatisfied with the amount of the assistance the claimant was receiving prior to the claimant's death.

Withdrawal of Request for Fair Hearing before Decision

1. The claimant may withdraw the request for fair hearing at any time before a decision is made by NDDHS.
2. In cases where there appears to be a possibility for corrective action without further fair hearing proceedings, the claimant may file a conditional withdrawal of the request for a fair hearing. Such conditional withdrawal will not prohibit the claimant from filing a new request for a fair hearing if the claimant remains dissatisfied with any such corrective action. No hearing shall be delayed or canceled because of this possibility unless the claimant consents to such delay.

PUBLIC INVOLVEMENT

As required under Section 402(a)(4) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, NDDHS has provided opportunities to local governments, private sector organizations, and the general public to review and discuss the Temporary Assistance for Needy Families (TANF) Program. Local governments, private sector, and the general public were given an opportunity to submit comments on the design and content of the TANF State Plan. Details of the state's efforts to solicit suggestions and comments are listed below.

1. On October 27, 2004, a copy of the TANF State Plan was sent to all county social service agency directors. The TANF State Plan was also posted on the North Dakota Department of Human Services website with an invitation for interested parties to comment on the plan.
2. A public notice was placed in each of the state's daily newspapers requesting suggestions from the public content of the TANF State Plan.
3. Testimony before committees of the North Dakota Legislature was presented during 2002 session. This testimony occurred primarily before the legislative appropriations and human services committees. Other committee testimony was provided as requested. Comments and suggestions from the committee members were also considered in the preparation of NDDHS's plan recommendation. The ND Legislature passed House Bill 1226 that authorized the operation of the state's TANF Program. The Legislature also passed House Bill 1108 that appropriated the necessary federal, state, and other funds for operation of the TANF Program. North Dakota's Governor signed the bill into state law.
4. Comments from participants were considered as part of the plan recommendation.



CERTIFICATIONS



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Fa
ota will operate a program to provide Temporary Assistance for Needy at children may be cared for in their own homes or in the homes of relatives; to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; to prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and encourage the formation and maintenance of two-parent families. This program is known as the North Dakota TANF Program.

I, John Hoeven, Governor of North Dakota, certify that in administering and operating a program that provides Temporary Assistance for Needy Families with minor children under Title IV-A of the Social Security Act, the state of North Dakota will:

1. Specify the North Dakota Department of Human Services as the agency responsible for the administration and supervision of the program under part A in all political subdivisions of the state;
2. Operate a Child Support Enforcement Program under the State Plan as approved under part D;
3. Operate a Foster Care and Adoption Assistance Program in accordance with part E, and certify that the state will take all necessary actions to ensure that children receiving assistance are eligible for medical assistance;
4. Provide each member of an Indian tribe, who is domiciled in the state and is not eligible for assistance under a Tribal Family Assistance Plan approved under Section 412, with equitable access to assistance under the state program funded under this part attributable to funds provided by the federal government;
5. Establish and enforce standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the state program, kickbacks, and the use of political patronage; and
6. Establish standards and procedures to screen and identify individuals receiving TANF assistance who are victims of domestic violence; make referrals for counseling and supportive services, as appropriate; and waive certain program requirements in cases where compliance with such requirements would make it more difficult for the individual to escape domestic violence or be at risk of further domestic violence.

7. Make a summary of the TANF State Plan available to the public

CERTIFIED BY THE CHIEF EXECUTIVE OFFICER OF THE STATE:

John Hoeven, Governor of North Dakota

Date

ATTACHMENT A

**NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
ORGANIZATIONAL CHART**

ATTACHMENT B

OFFICE OF ECONOMIC ASSISTANCE
ORGANIZATIONAL CHART